



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	07/06/00	Bill No:	AB 2799
Tax:	Public Records Act	Author:	Shelley
Board Position:		Related Bills:	SB 2027 (Sher)

BILL SUMMARY:

This bill provides for the release of public records in an electronic format and requires a public agency that withholds a public record to justify its withholding in writing.

ANALYSIS:

Current Law:

Under current law the Public Records Act, or PRA (commencing with Section 6250 of the Government Code), provides for public access to any record maintained by a state and local agency, unless there is a statutory exemption that allows or requires the agency to withhold the record.

A public record is defined as “any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.” The PRA provides that public records be open to inspection at all times during the office hours of the state or local agency and that every person has a right to inspect any public record, except as specifically provided.

Under current law, upon request, an exact copy of the record shall be provided unless impracticable to do so, and computer data shall be provided in a form determined by the agency.

Proposed Law:

This bill would amend Sections 6253 and 6255 of, and add Section 6253.9 to, the Government Code. Specifically, AB 2799 would:

- Delete the requirement that public records kept on computer be disclosed in a form determined by the public agency, and instead require a public agency that keeps public records in an electronic format to make that information available in that electronic format when requested by any person and according to the following

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guidelines: 1) the agency must make the information available in any electronic format in which it holds the information, 2) each agency must provide a copy of an electronic record in the format requested if the requested format is one that has been used by the agency to create copies for its own use or for provision to other agencies, 3) an agency shall not be required to reconstruct a report in an electronic format if the report is no longer in an electronic format, 4) if the request is for information in other than electronic format, and the information also is in electronic format, the agency may inform the requester that the information is available in electronic format, and 5) the duplication costs shall be limited to the direct cost of producing a copy of the record in an electronic format, absent specified exemptions.

- Require an agency that withholds a public record in response to a written request to justify its withholding in writing.
- Allow additional time for an agency to provide records under unusual circumstances, including the need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.
- Specify that the requirements of the bill shall not be construed to permit an agency to make information available only in an electronic format nor to permit public access to records held by any agency that are otherwise restricted under the PRA.
- Specify that, in addition to existing provisions prohibiting a public agency from obstructing the inspection or copying of public records, no agency may delay the inspection or copying of public records.

This bill would become operative on January 1, 2001.

Background:

In July 1998, the California Joint Legislative Task Force on Government Oversight issued a report entitled "The Failure of the California Public Records Act," and stated that much of the information forming the basis for state and local government decisions is not easily accessible to the public.

COMMENTS:

- 1. Sponsor and purpose of the bill.** This bill is sponsored by the California Newspaper Publishers Association in an effort to ensure more useful access to public records.
- 2. Amendments to this bill since our analysis of the May 23, 2000 version are minor.**
- 3. It would be extremely difficult for the Board to "write programming language or a computer program, or to construct a computer report to extract data" with just an additional 14 days.** Board staff would likely need more time and resources to construct such items in an acceptable and usable form. Other portions of this bill codify existing Board practices, for example the Board already provides denials of public records requests in writing.

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- 4. Related legislation:** This bill is similar to SB 2027 (Sher), which would establish a new appeals procedure for an agency's denial of a written request or an agency's failure to respond to a written request for a public record.

COST ESTIMATE:

It is not anticipated that the provisions of this bill would result in additional administrative costs. Provisions of the Public Records Act allow the Board to recover the direct costs of providing the records in an electronic format.

REVENUE ESTIMATE:

This bill would not impact state revenues.

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